

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

CAPELLA PHOTONICS, INC.,

Plaintiff

v.

INFINERA CORPORATION, TELLABS,  
INC., TELLABS OPERATIONS INC.,  
CORIANT AMERICA INC., and CORIANT  
(USA) INC.,

Defendants.

Civ. No. 2:20-cv-00077

**DEFENDANTS' MOTION FOR SUMMARY JUDGMENT OF (1) NO INFRINGEMENT  
OF THE ASSERTED CLAIMS UNDER THE DOCTRINE OF EQUIVALENTS AND  
(2) NO LITERAL INFRINGEMENT OF CLAIM 29 – EXHIBIT 2**

**FILED UNDER SEAL**

Dated: April 26, 2021

Respectfully submitted,

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Operations Inc., Coriant America Inc., and  
Coriant (USA) Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on April 26, 2021.

By: /s/ Kurt Pankratz  
Kurt Pankratz

**CERTIFICATE OF AUTHORIZATION TO FILE UNDER SEAL**

I hereby certify that the forgoing document is authorized to be filed under seal pursuant to the Protective Order entered in this matter.

By: /s/ Kurt Pankratz  
Kurt Pankratz

FILED UNDER SEAL

EXHIBIT 2

UNITED STATES DISTRICT COURT  
IN THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

CAPELLA PHOTONICS, INC.,

Plaintiff,

v.

INFINERA CORPORATION, TELLABS,  
INC., TELLABS OPERATIONS INC.,  
CORIANT AMERICA INC., and CORIANT  
(USA) INC.,

Defendants.

Case No. 2:20-cv-00077-JRG

**PLAINTIFF CAPELLA PHOTONICS, INC.'S DISCLOSURE OF ASSERTED  
CLAIMS AND INFRINGEMENT CONTENTIONS TO INFINERA CORPORATION,  
TELLABS, INC., TELLABS OPERATIONS INC., CORIANT AMERICA INC.,  
AND CORIANT (USA) INC.**

**I. P.R. 3-1. Disclosure of Asserted Claims and Infringement Contentions**

Pursuant to LR 3-1, plaintiff Capella Photonics, Inc. ("Capella" or "Plaintiff"), by and through its counsel, hereby submits the following Disclosure of Asserted Claims and Infringement Contentions ("Disclosure" and/or "Contentions") with respect to defendants Infinera Corporation, Tellabs, Inc., Tellabs Operations Inc., Coriant America Inc., and Coriant (USA) Inc. (collectively "Infinera" or "Defendant").

These Disclosures are based on information currently available to Plaintiff. Plaintiff reserves the right to supplement these Disclosures consistent with the local rules or authorized by this Court.

**A. Patent Rule 3-1(a): Asserted Claims**

Capella asserts that Defendant infringes one or more of the following claims ("Asserted

claim element is considered to indicate that each claim element is found within each of the different variations, versions, editions, and applications of each respective Accused Instrumentality described above.

**D. Patent Rule 3-1(d): Literal Infringement/Doctrine of Equivalents**

With respect to the patents at issue, Capella contends that each element of each Asserted Claim is literally present. To the extent that Defendant identifies elements of the Asserted Claims that they contend are not literally present in the Accused Instrumentalities, Capella contends that such elements are present under the doctrine of equivalents.

In addition, for each claim requiring “a-one dimensional array of collimator-alignment mirrors”, Capella asserts that the element is present literally and under the doctrine of equivalents in the Accused Instrumentalities. A mirror or collection of mirrors performs the same function as a one dimensional array of collimator-alignment mirrors (adjusting alignment of optical signals), in the same way (reflecting), to achieve the same result (port alignment). There are no substantial differences.

In addition, for each claim requiring “a predetermined value”, Capella asserts that the element is present literally and under the doctrine of equivalents in the Accused Instrumentalities. A predetermined range performs the same function (maintain power within specified operational parameters), in the same way (control assembly maintains), to achieve the same result (performance goals). There are no substantial differences.

In addition, for each claim requiring “beam deflecting elements”, Capella asserts that the element is present literally and under the doctrine of equivalents in the Accused Instrumentalities. A channel micromirror performs the same function (to reflect its corresponding spectral channel), in the same way (reflection), to achieve the same result

(coupling). There are no substantial differences.

In addition, for each claim requiring “channel micromirrors”, Capella asserts that the element is present literally and under the doctrine of equivalents in the Accused Instrumentalities. A channel beam deflecting element performs the same function (to reflect its corresponding spectral channel), in the same way (reflection), to achieve the same result (optical coupling). There are no substantial differences.

**E. Patent Rule 3-1(e): Priority Dates**

The Asserted Claims are entitled to priority dates at least as early as March 19, 2001.

**F. Patent Rule 3-1(f): Identification of Instrumentalities Practicing the Claimed Invention**

Capella previously designed and sold WSS products including: Wavepath 4500, and CR-EX 1x20 WSS. Those products practiced the claims of the patents.

**II. P.R. 3.2. Document Production Accompanying Disclosure**

Pursuant to Patent Rule 3-2, Capella submits the following Document Production Accompanying Disclosure, along with an identification of the categories to which each of the documents corresponds.

**A. Patent Rule 3-2(a) documents:**

Capella is presently unaware of any documents not previously produced in the prior litigation involving Coriant and Tellabs sufficient to evidence any discussion with, disclosure to, or other manner of providing to a third party, or sale of or offer to sell, the inventions recited in the Asserted Claims of the Asserted Patents prior to the application date or priority date for the Asserted Patents. A diligent search continues for documents and Capella reserves the right to supplement this response.

**CONFIDENTIAL****B. Patent Rule 3-2(b) documents:**

Capella is presently unaware of any documents not previously produced in the prior litigation involving Coriant and Tellabs that relate to conception, reduction to practice, design, and development of each claimed invention created on or before the application date of patents-in-suit or priority date identified pursuant to P. R. 3-1(e), as disclosed above. A diligent search continues for other documents and Capella reserves the right to supplement this response.

**C. Patent Rule 3-2(c) Documents:**

The following previously produced documents contain file histories for the Asserted Patents: CAPELLA0000001-009433. Additional U.S. file history documents since 2014 are available at <https://portal.uspto.gov/pair/PublicPair>. Capella hereby designates the entire prior file history production to Coriant and Tellabs for this litigation along with the additional file histories since 2014 and will reproduce physical copies (or provide a link to such materials) upon request. The same confidentiality designations and protections apply.



**CONFIDENTIAL**

Dated: May 25, 2020

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing document was served on all counsel of record who have consented to electronic service on this 25<sup>th</sup> day of May, 2020.

/s/ Charles Everingham IV  
Charles Everingham IV

CONFIDENTIAL

EXHIBIT A

RE47,905	Infinera Accused Instrumentalities
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**CONFIDENTIAL**

ones of said second spectral channels to said output port to be added to said output multi-wavelength optical signal.	
29. The optical add-drop apparatus of claim 23 further comprising alignment mirrors for adjusting alignment of said input and output multi-wavelength optical signals and said second spectral channels with said wavelength-selective device.	On information and belief, to allow for compact WSS module size, in each WSS, there are alignment mirrors for adjusting alignment of the input and output multi-wavelength optical signals and the second spectral channels with the wavelength-selective device.